

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 120

May 6, 1998, 10:35 am
Page S-4392 Temp. Record

IRS REFORM/Additional Offsets

SUBJECT: Internal Revenue Service Restructuring and Reform Act of 1998 . . . H.R. 2676. Roth amendment No. 2339.

ACTION: AMENDMENT AGREED TO, 56-42

SYNOPSIS: As reported, H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, will radically restructure the Internal Revenue Service (IRS) to make it more accountable and responsive to taxpayers' needs, and will enact comprehensive reforms to protect taxpayers from IRS abuses of power.

The Roth amendment would add several provisions to increase revenues in order to offset fully the bill's cost over 10 years. As reported, the costs are fully offset in the first 5 years but not in the second 5 years. The costs are primarily due to the lower rates of tax collection that will result from stopping current abusive IRS collection practices. The largest costs (tax relief) will be as follows: innocent spouse relief: innocent spouses will be held liable only for tax attributable to their income (this provision is primarily for divorced women whose former husbands, without their knowledge, cheated on their taxes and cannot be found by the IRS; the IRS pursues the women for the full amount owed by their former husbands); the accrual of interest and penalties (except for fraud and criminal penalties) will be suspended if the IRS does not provide notice to a taxpayer within 12 months of receiving that taxpayer's return; the penalty for an individual's failure to pay will be eliminated during installment agreements; and under certain conditions, if a taxpayer has credible evidence regarding a factual issue at dispute regarding his or her income tax liability, the burden of proof will be on the IRS (under present law, the taxpayer must always prove that the IRS's assertion of liability is wrong). To offset the above costs fully, the Roth amendment would add the following revenue provisions: effective January 1, 2005, senior citizens age 70.5 and older would not be penalized by having the required distributions from their Investment Retirement Accounts (IRAs) count as part of their income for purposes of determining whether they exceeded the \$100,000 limit on eligibility for converting an IRA into a Roth IRA (this provision would raise funds because converting an IRA requires taxes to be paid

(See other side)

| YEAS (56) | | | NAYS (42) | | NOT VOTING (2) | |
|-----------------------------|------------------------|---------------|--------------------------|--------------------------|---------------------|---------------------|
| Republicans (54 or 100%) | Democrats (2 or 5%) | | Republicans (0 or 0%) | Democrats (42 or 95%) | Republicans (1) | Democrats (1) |
| Abraham | Hutchinson | Biden | Baucus | Johnson | Helms- ² | Akaka- ⁴ |
| Allard | Hutchison | Moseley-Braun | Bingaman | Kennedy | | |
| Ashcroft | Inhofe | | Boxer | Kerrey | | |
| Bennett | Jeffords | | Breaux | Kerry | | |
| Bond | Kempthorne | | Bryan | Kohl | | |
| Brownback | Kyl | | Bumpers | Landrieu | | |
| Burns | Lott | | Byrd | Lautenberg | | |
| Campbell | Lugar | | Cleland | Leahy | | |
| Chafee | Mack | | Conrad | Levin | | |
| Coats | McCain | | Daschle | Lieberman | | |
| Cochran | McConnell | | Dodd | Mikulski | | |
| Collins | Murkowski | | Dorgan | Moynihan | | |
| Coverdell | Nickles | | Durbin | Murray | | |
| Craig | Roberts | | Feingold | Reed | | |
| D'Amato | Roth | | Feinstein | Reid | | |
| DeWine | Santorum | | Ford | Robb | | |
| Domenici | Sessions | | Glenn | Rockefeller | | |
| Enzi | Shelby | | Graham | Sarbanes | | |
| Faircloth | Smith, Bob | | Harkin | Torricelli | | |
| Frist | Smith, Gordon | | Hollings | Wellstone | | |
| Gorton | Snowe | | Inouye | Wyden | | |
| Gramm | Specter | | | | | |
| Grams | Stevens | | | | | |
| Grassley | Thomas | | | | | |
| Gregg | Thompson | | | | | |
| Hagel | Thurmond | | | | | |
| Hatch | Warner | | | | | |

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

upfront; no additional revenues would be raised in the first 5 years; \$8.028 billion would be raised in the second 5 years); special net operating loss carryback rules for specified liability losses would be restricted (this provision would raise \$89 million in the first 5 years and \$207 million in the second 5 years); and the current-law user fees for IRS letter rulings would be extended for 4 years (this provision would raise \$277 million in the second 5 years). The amendment would also modify the reported bill's limit on the carryback period of the foreign tax credit and would use the pay-go balance of \$406 million in the second 5 years as an offset.

Those favoring the amendment contended:

The bill before us will provide taxpayers substantial protections from abusive IRS collection practices. Once the IRS stops using those abusive practices, it will obviously collect less in taxes. Our colleagues have suggested that we are giving "tax expenditures" by enacting these provisions. They say we are "spending" because we will collect less in taxes, so in effect we are spending money on the people who will not be paying those taxes. We totally and emphatically reject this analysis. In the first place, it is never an "expenditure" to let people keep more of the money that they, not the Federal Government, has earned. In the second place, stopping the IRS from using unjust tax collection practices is no more a tax break than stopping a medieval torturer from using the rack to squeeze extra money out of innocent people. For instance, one of the "tax expenditures" in this bill will provide innocent spouse relief. Under current law, if a husband cheats on his taxes and then flees the country, abandoning his wife, the IRS will hound his wife for payment to the end of her days. She may lose her home, all her assets, and have her wages garnished for decades to pay a tax liability about which she knew nothing and for which she was in no way responsible. This bill will stop this abusive practice and similarly abusive practices.

The protections that will be enacted from this bill will result in approximately \$18 billion less in taxes being collected. That fact reveals how extensive the abuses are. It also raises a budgetary problem of finding offsets for those lower revenue collections. We do not want to abuse the taxpayers, but we do not want to approve a bill that will have a net deficit effect. Our country's greatest long-term problem is still solvency--we have a huge debt that needs to be retired, and we need some form of savings in order to pay for the coming actuarial difficulties of paying for the baby-boomers' retirement. The Roth amendment has been offered to solve the budgetary problem over the next 10 years. It has several provisions. The main provision is opposed by some Members. That provision will remove the discriminatory treatment of elderly Americans in determining their eligibility to convert conventional IRAs into Roth IRAs. No one denies that this provision will only apply to Americans who are older than 70 years old, and no one denies that it will provide the needed revenue. In fact, the only argument against it is that if these elderly Americans are able to have the same Roth IRA options as younger Americans they will hire crafty lawyers who will somehow manage to hide more of these elderly Americans' income from estate taxes when they die. Our colleagues have no evidence for this malevolent suspicion; they just seem to have the view that they had better get as much as they can in taxes out of these old people before they die because they might not be able to get as much afterwards. Our colleagues are entitled to their own peculiar views. As far as we are concerned, though, elderly Americans should not be discriminated against. Thus, we are pleased with the Roth IRA offset in this amendment.

Those opposing the amendment contended:

We favored the IRS restructuring bill as it passed the House. This bill expands on the House's bill, particularly by adding so-called taxpayer protections. Those protections have a large cost--close to \$20 billion over 10 years. We happily would have voted for the bill as it passed the House. As it is, we still support the Senate's more expansive version of the bill. However, in adding taxpayer protections, our Republican colleagues have added substantial new costs to the bill. These protections are in reality tax expenditures. We will not argue the advisability of these expenditures. To our Republican colleagues' credit, they are not at all pleased that the costs of these tax expenditures are not offset over the next 10 years. The bill will offset the costs in the first 5 years, but not in the second. We join with our colleagues in their desire to find offsets so that the bill will not have a net deficit effect. At this point, though, we part company with our Republican colleagues, because they have come up with a proposal that would benefit rich people and would have long-term deficit effects. If the Roth amendment passes, which we fear it will, more elderly Americans will be able to convert their IRAs into Roth IRAs. Upfront, they will pay more in taxes, but the interest they earn will be tax-free, and in the out-years there will be a net reduction in tax collections. Also, we think that tax lawyers and accountants will then figure out ways to shield more of these elderly Americans' wealth from the estate taxes. Democrats have crafted an alternative to the Roth amendment, which would rely primarily on reinstating the expired Superfund taxes to pay for the tax expenditures in this bill. We understand that many Members think that this provision would harm environmental cleanup efforts by making Superfund reform less likely, but we think that issue is of great enough import that some solution could still be found. We will not offer our alternative amendment, because we know its fate would be a foregone conclusion, but we inform our colleagues that we are still unhappy with their funding resolution. We hope that in conference on this bill an acceptable compromise will be reached.